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SUBJECT: ONE YEAR LATER: LEVON GULYAN DEATH CASE SMELLS OF  
COVER-UP AS IT REACHES FINAL STAGE

REF: A) 2007 YEREVAN 713, B) 2007 YEREVAN 649, C) YEREVAN 296

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(U) Sensitive but unclassified. Please protect accordingly.

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SUMMARY  
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¶1. (SBU) One year on from Levon Gulyan's death, the court seems set to rule against a Gulyan family appeal of authorities' questionable official interpretation. The appeals came one month after the newly formed State Investigative Service (SIS) called the case closed and exonerated police in the suspicious death. The SIS decision raised eyebrows in the human rights community, adding to existing doubts about the authorities' handling of the case -- and of SIS credibility. Officials banned a march that the Gulyan family planned on the anniversary of his death. END SUMMARY.

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APPEAL POSTPONED  
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¶2. (SBU) On April 29, a court of first instance judge postponed hearings into the appeal by the family of Armenian citizen Levon Gulyan, who suspiciously fell to his death from a police station in May 2007 where he was being questioned as a witness to a homicide outside his restaurant (reftels A-B). The Gulyan family lodged the appeal in late March after the Special Investigative Service (SIS) on March 12 called the case closed and exonerated the police of any responsibility.

¶3. (SBU) In its March 12 decision, the SIS found that Gulyan's death was of his own doing, and not the result of police malfeasance. Describing the circumstances of death, the SIS reiterated the contents of the first police report on the case -- that Gulyan accidentally fell to his death while trying to escape from the police station in question through a second-story window. Gulyan allegedly diverted a police officer by asking for a cup of water, after which he made his ill-fated escape out the window, falling 25 feet to the ground below.

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DOUBTS ABOUT SIS  
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¶4. (SBU) The SIS' new jurisdiction over the case has raised eyebrows in the human rights community. Formed in December 2007 as an independent investigative unit -- nominally reporting directly to the president, but housed within the Prosecutor General's offices and de facto reporting to the PG -- the SIS was publicly touted as a new watchdog agency as a check against official misdeeds. Local

observers have been watching the SIS' handling of the Gulyan case to get a better idea of its putative independence, and whether it would really go full throttle after government employees involved in misdoings. The Gulyan ruling is one of its first high-profile cases, with the SIS having taken over the investigation from police as soon as the unit was established at the end of last year.

¶5. (SBU) The basis of the SIS decision in particular -- after ten months of official investigations -- has also arched eyebrows. According to the SIS, Gulyan's motive for escape was to avoid the inevitability of confrontation with a witness who gave conflicting testimony on Gulyan's whereabouts during the May 12, 2007, murder that occurred outside his restaurant in a district of Yerevan. The light punishment - administrative sanctions -- that the SIS meted out to the two police officers who left Gulyan in the room alone when he allegedly attempted his escape has only added to doubts about the SIS handling of the case.

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FAMILY SLAMS, APPEALS, QUESTIONS SIS INVESTIGATION  
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¶6. (SBU) Gulyan's family slammed the SIS investigation as biased, unfair, and opaque, and unsuccessfully appealed the decision with the Prosecutor General's office on March 20. (NOTE: Given the PG office's jurisdiction over all government-initiated investigations, this is the procedure to follow in such cases before taking a case to the court. END NOTE.) After the PG office's office rejected the claim on March 26, Gulyan's family applied April 8 to the first instance court, demanding a new investigation and punishment of those guilty in the wrongful death. During the hearing the family had a chance to voice their concerns and pose questions to the court as well as the prosecutor and investigator representing the government.

¶7. (SBU) Following is an enumeration of the family's principal

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concerns and questions into the handling of the case:

-- there was not any legal status for Gulyan while he was kept for extended hours without freedom of movement at the police;

-- not all of the fingerprints found on the window from which Gulyan had allegedly tried to escape were identified;

-- no reasonable justification was provided for why a person who had voluntarily come to the police would try to escape into a guarded police area;

-- the family's statements that Gulyan was beaten were not investigated, and the investigation did not specify the cause of injuries on Gulyan's body (other than those caused by his fall);

-- the allegations of torture and inhumane treatment of two other witnesses involved were not investigated;

-- the SIS did not ensure the conduct of forensic examination using a mannequin;

-- the investigation was built solely on the statements of police officers who were motivated by self-exculpatory interests in the case;

-- the family was prevented from participating in the investigation;

-- and forensic examination of the corpse failed to prove that the body had hit exterior building pipes during the fall, even though the investigators claimed that it did, in order to explain the peculiar trajectory of the fall and some of the injuries otherwise inexplicable by the official theory (the family believes those injuries were the result of police beatings).

¶8. (SBU) Attorneys representing the family also used the hearing to voice the range of possible scenarios for the actual cause of

Gulyan's death:

-- the police threw Gulyan out of the window to cover up torture, or Gulyan jumped or tried to escape from inhumane treatment and torture;

-- and whatever took place inside the police station holding room where Gulyan was being questioned took place one floor higher, in a third story office reputedly used by police to extract confessions.

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PROSECUTORS' DEFENSE OF SIS STRAINS CREDULITY  
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¶9. (SBU) Emboffs who have attended all the appeal hearings to date report being struck by the shoddy defense of the SIS decision by government counsel. A notorious prosecutor and an SIS investigator are defending the decision to close the case, and their weak, arrogant, and combative argumentation has only served to reinforce doubts about the government's handling of the case. Unable to answer any of the family's questions, the two have instead resorted to belligerently badgering the Gulyan family's lawyers, constantly attacking and interrupting them. And instead of providing yes or no answers to posed questions, they have resorted to stonewalling by constantly referring back to case materials or rephrasing the questions without providing answers.

¶10. (SBU) The government counsel also blamed the family for not presenting any specific appeals, repeating instead that the family has presented appeals only on abstract human rights violations. After providing a fantastic scenario which described how Gulyan's body could have turned around in the air -- so that he fell head first onto the ground below instead of feet first if he himself initiated the jump -- the SIS investigator rejected the need for a forensic examination into the fall that would deploy a mannequin for simulation purposes. The investigator also claimed that the government did not have any means for obtaining the mannequin, and that the family should have provided it instead. The two counsel could not prove the legal grounds for the police holding of Gulyan, but countered that administrative sanctions against the two police officers for their deed sufficed as a penalty for their misconduct.

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ANOTHER CASE OF INTERFERENCE IN THE JUDICIARY?  
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¶11. (SBU) On April 29, Judge Gagik Avetisian was expected to announce the verdict of the appeal after the two initial hearings.

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Unexpectedly, however, he postponed the hearing until May 22 after raising his concerns with government counsel on the unidentified fingerprints found on the window from which Gulyan allegedly jumped, and the lack of evidence showing that Gulyan's body had indeed hit exterior building pipes during its fall. Representatives of human rights organizations present at the hearings told Emboff that despite the postponement they have little hope for a fair decision. The delay was unexpected to be sure, but they thought it had more to do with the judge not yet having marching "instructions" from the government. They said this was probably the result of the government's focus on the post-election crackdown against opposition supporters.

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PUBLIC ATTENTION TO CASE POOR  
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¶12. (SBU) On April 16, before taking their appeal to court, the Gulyan family's lawyers organized a press conference in an attempt to draw public attention to the hearings. Only one TV crew showed up for the press conference, but subsequently chose not to air any footage. RFE/RL, independent as well as opposition print and internet media provided the only coverage of the hearings. Gulyan's family and a few journalists, human rights activists, and representatives of international organizations attended the court

hearings.

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POLICE BAN GULYAN FAMILY'S MARCH  
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¶13. (SBU) Police interceded to prevent a march that the Gulyan family had planned to mark the anniversary of Levon's death on May 12, citing the Yerevan municipality's refusal to sanction the march. The evening march had been scheduled to proceed from Republic Square to police headquarters. According to Avetik Ishkhanian of the local Helsinki Committee human rights organization, who filed the march request on May 9, the municipality issued only a verbal refusal, and nothing in writing, as is required by law. About 100 people defied the verbal refusal, gathering in Republic Square before police intervened to prevent the march and filming of the event. Police did allow protesters to light candles in the center of the square, however. According to the pro-opposition AlPlus online news service, a similar march was allowed on May 19, 2007, a week after Gulyan's death. The news service speculated that authorities banned the anniversary march in light of the ongoing political crisis in the country.

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COMMENT  
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¶14. (SBU) The questionable handling of the Gulyan case speaks for itself. While the lurid details of such cases are rarely fully disclosed to the public, police abuse is widely known to be a serious problem in Armenia. The SIS' first high-profile decision bodes ill for the credibility of the new watchdog agency, which looks increasingly like a stealthy reversal of last year's reform to take investigative functions away from the prosecutors, so as to create appropriate checks and balances.

PENNINGTON